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In re Application of
LILLEY, et al.
Application No.: 10/582,837
PCT No.: PCT/IB04/52741
Int. Filing Date: 09 December 2004
Priority Date: 15 December 2003
Atty. Docket No.: US03 0503 US2
For: SYSTEM FOR CHANGING THE AMPLITUDE
OF MOVEMENT FOR A POWER TOOTH-
BRUSH BRUSHHEAD BY CHANGING THE
DRIVE FREQUENCY OF THE TOOTHBRUSH

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 10 January 2008 in the above-captioned application is hereby **DISMISSED** as follows:

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant has satisfied item 2, while item 4 does not apply.

Regarding item 1, the proper reply was a compliant, executed declaration in response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 December 2006. However, the filed declaration is defective in that it contains two pages listed as "page 2." The Manual of Patent Examining Procedure, section 201.03 states:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

It appears from the papers submitted that the present declaration was compiled from various declarations. In addition, the filed declaration does not provide any specification

information as to what is being claimed. The declaration is identified as a declaration submitted with initial filing with the specification "attached hereto." That is not the case.

Regarding item 3, while applicant has provided a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional, the delay in responding to the Form PCT/DO/EO/905 and an examination of the response requires further information. Specifically, an examination of the filed declaration finds that the inventors executed the declaration in 2004, while the present U.S. National stage application was filed 14 June 2006. As such, the declaration appears to have been ready to have been filed with the commencement of the U.S. National stage. In order to perfect the statement of unintentional abandonment, applicant must provide further information as to the presentation of the declaration to the inventors, as well as, the preparation of the present petition and response.

This application remains abandoned as to the National stage in the United States.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.137(b) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2)** MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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